

Application No. ZM-88-04, King's Creek Developers, LLC: Request to amend the York County Zoning Map by reclassifying a 25.1-acre portion of two parcels located at 1681 Penniman Road (Route 641) and 112 Jones Drive (private road) from RR (Rural Residential) to EO (Economic Opportunity) subject to voluntarily proffered conditions. The combined acreage of the two parcels is 28.3 acres. The applicant has proffered that the property will be used exclusively for timeshare development, that buildings will be limited to no more than four stories in height, and that no buildings will be within 50 feet of any adjacent residential property; and **Application No. UP-646-04, King's Creek Developers, LLC:** Request, contingent on the approval of Application No. ZM-88-04 above, for a Special Use Permit, pursuant to Section 24.1-306 (Category 11, No. 11) of the York County Zoning Ordinance, to authorize the construction of up to 400 timeshare units on approximately 25.1 acres located at 1681 Penniman Road (Route 641) and 112 Jones Drive (private road). The applicant plans to incorporate this property into the King's Creek Plantation timeshare resort currently under construction on approximately 157 acres adjacent thereto. (The Commission tabled these applications at its October 13, 2004 meeting.)

Timothy C. Cross, AICP, Principal Planner, summarized the staff report to the Commission dated February 28, 2005. He explained the applicant had revised the original applications, tabled by the Commission last fall, limiting the building setback from any property line from 50 ft. to 35 ft. and the maximum building height from six to four stories. In staff's opinion, the proposed revisions should ameliorate staff's original concerns about possible noise and visual impacts on surrounding properties. Therefore, the staff is recommending approval of both applications, he said.

At **Mr. Simasek's** request, **Mr. Cross** explained the proposed buffers for each of the properties. In response to a question by **Mr. Ptasznik**, **Mr. Cross** affirmed that driveways are permitted within 50 ft. of a property line as long as they maintain a 35 ft. buffer.

The Chair opened the public hearing.

Mr. Billie Millner, Jones Blechman Woltz and Kelly, PC, 27 Indigo Dam Road, Newport News, represented the applicants and proceeded to introduce Mr. Thomas Ruhf, President and CEO of Kings Creek Developers; Ron Osborne of Landmark Design Group, and Ms. Tammie Hicks, representing neighbors and homeowners near the project. He said the applicants had fulfilled all the promises made in the past to the County and have been excellent corporate citizens and their tax revenues accruing to the County are significant.

Mr. Hamilton inquired if the application included any recreational facilities for guests. **Mr. Millner** explained that recreational amenities for the overall Kings Creek development include an indoor aquatic center, cookout areas, park benches, and two outdoor swimming pools.

Mr. Staton inquired how many units have been sold and the estimated build out time.

Mr. Thomas Ruhf stated 170 units have been sold and total build out should take 15 to 20 years. **Mr. Millner** added that the applicant would not focus on the subject application until at least 2012.

Ms. Tammie R. Hicks, 1701 Penniman Road, thanked the applicant for meeting with homeowners of the surrounding area to hear their desires, needs and concerns, then addressing the comments in the proposal. She added that she had attended a “Charting the Course to 2025” neighborhood meeting last fall and expressed to **Mr. Cross** the hope that commercial uses not be allowed to take over the few remaining residential areas in the upper County.

Mr. Davis recommended approval, noting that he believed the subject proposal was an improvement over the initial proposal.

Mr. Barba said he expected more neighborhood opposition, but lacking that he was even more convinced the plan was good for the area.

Mr. Simasek expressed appreciation to the applicants for taking the time and effort to hear the neighbors’ views and concerns.

Mr. Ptasznik moved adoption of proposed Resolution PC05-8.

PC05- 8

On motion of Mr. Ptasznik, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A REQUEST TO
REZONE APPROXIMATELY 25.1 ACRES ON THE SOUTH SIDE OF
PENNIMAN ROAD FROM RR – RURAL RESIDENTIAL TO EO – ECONOMIC
OPPORTUNITY SUBJECT TO VOLUNTARILY PROFFERED CONDITIONS

WHEREAS, King’s Creek Developers, LLC has submitted Application No. ZM-88-04, which requests to amend the York County Zoning Map by reclassifying from RR (Rural Residential) to EO (Economic Opportunity) approximately 25.1 acres of land located on the south side of Penniman Road (Route 641) approximately 600 feet west of its intersection with Springfield Road (Route 687), and further identified as portions of Assessor’s Parcel Nos. 11-3-E and 11-3-F; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of March, 2005, that Application No. ZM-88-04 be, and it hereby is, transmitted to the

York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying from RR (Rural Residential) to EO (Economic Opportunity) approximately 25.1 acres of land located on the south side of Penniman Road (Route 641) approximately 600 feet west of its intersection with Springfield Road (Route 687), and further identified as portions of Assessor's Parcel Nos. 11-3-E and 11-3-F and more fully identified and described as follows:

All of that piece or parcel of land situated in the Magruder district of York County, VA containing 25.1456 acres and more particularly described as follows:

Beginning at a point on the southerly right-of-way line of Penniman Road, State Route 641, said point being the common corner between the property herein described and property now or formerly owned by Lawrence I. Jones. Thence from said point of being along a curve to the right having a radius of 715.00' and an arc length of 50.02' to a point; thence S 26° 44' 40" E, 351.50' to a point; thence N 63° 15' 20" E, 180.69' to a point; thence S 22° 43' 40" E, 32.83' to a point; thence N 45° 00' 23" E, 7.50' to a point; thence S 44° 49' 37", 224.21' to a point; thence N 45° 10' 23" E, 249.33' to a point; thence S 44° 57' 45" E, 111.48' to a point; thence S 44° 57' 45" E, 232.26' to a point; thence S 41° 52' 45" E, 289.41' to a point; thence S 41° 29' 45" E, 59.58' to a point; thence S 44° 21' 53" E, 124.54' to a point; thence S 31° 31' 01" E, 27.01' to a point; thence S 31° 41' 53" E, 37.93' to a point; thence S 12° 03' 01" E, 115.13' to a point; thence S 26° 32' 55" E, 143.74' to a point; thence S 09° 16' 58" E, 235.50' to a point; thence S 56° 34' 50" W, 230.74' to a point; thence N 76° 38' 13" W, 189.81' to a point; thence N 51° 01' 51" W, 328.64' to a point; thence S 73° 16' 35" W, 167.41' to a point; thence N 53° 05' 20" W, 87.91' to a point; thence N 80° 39' 21" E, 89.09' to a point; thence N 52° 47' 00" W, 160.01' to a point; thence N 37° 42' 56" W, 280.28' to a point; thence N 31° 41' 51" W, 201.60' to a point; thence N 26° 55' 57" W, 47.61' to a point; thence N 26° 38' 25" W, 92.06' to a point; thence N 19° 43' 25" W, 54.28' to a point; thence N 63° 15' 25" E, 100.13' to a point; thence N 26° 44' 40" W, 166.48' to a point; thence N 49° 17' 00" W, 98.64' to a point; thence N 47° 22' 10" E, 195.27' to a point; thence N 26° 44' 40" W, 189.79' and returning to the Point of Beginning.

BE IT FURTHER RESOLVED that the Commission recommends that approval of this application be subject to the voluntarily proffered conditions as set forth in the applicant's proffer statement, titled "REVISED PROFFERS: Rezoning Application No. ZM-88-04," signed by Thomas J. Ruhf, Authorized Agent for King's Creek Developers, LLC and dated January 27, 2005, a copy of which shall remain on file in the Planning Division and which, upon approval by the Board of Supervisors, shall be recorded in the office of the Clerk of the Circuit Court pursuant to the requirements of Section 24.1-114(e)(1) of the York County Zoning Ordinance.

Mr. Hamilton moved to adopt proposed Resolution PC05-9.

PC05-9

On motion of Mr. Hamilton, which carried 7:0, the following resolution was adopted:

**A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE THE CONSTRUCTION OF UP TO 400 TIMESHARE UNITS
ON PENNIMAN ROAD**

WHEREAS, King's Creek Developers, LLC has submitted Application No. UP-646-04 requesting a Special Use Permit, pursuant to Section 24.1-306 (Category 11, Number 11) of the York County Zoning Ordinance, to authorize the construction of a maximum of 400 timeshare units on approximately 25.1 acres of land located on the south side of Penniman Road (Route 641) approximately 600 feet west of its intersection with Springfield Road (Route 687), further identified as portions of Assessor's Parcel Nos. 11-3-E and 11-3-F; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of March, 2005, that Application No. UP-646-04 be, and it hereby is, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a Special Use Permit for the construction of a maximum of 400 timeshare units on approximately 25.1 acres of land located on the south side of Penniman Road (Route 641) approximately 600 feet west of its intersection with Springfield Road (Route 687), further identified as portions of Assessor's Parcel Nos. 11-3-E and 11-3-F and more fully identified and described as follows:

All of that piece or parcel of land situated in the Magruder district of York County, VA containing 25.1456 acres and more particularly described as follows:

Beginning at a point on the southerly right-of-way line of Penniman Road, State Route 641, said point being the common corner between the property herein described and property now or formerly owned by Lawrence I. Jones. Thence from said point of being along a curve to the right having a radius of 715.00' and an arc length of 50.02' to a point; thence S 26° 44' 40" E, 351.50' to a point; thence N 63° 15' 20" E, 180.69' to a point; thence S 22° 43' 40" E, 32.83' to a point; thence N 45° 00' 23" E, 7.50' to a point; thence S 44° 49' 37" E, 224.21' to a point; thence N 45° 10' 23" E, 249.33' to a point; thence S 44° 57' 45" E, 111.48' to a point; thence S 44° 57' 45" E, 232.26' to a point; thence S 41° 52' 45" E, 289.41' to a point; thence S 41° 29' 45" E, 59.58' to a point; thence S 44° 21' 53" E, 124.54' to a point; thence S 31° 31' 01" E, 27.01' to a point; thence S 31° 41' 53" E, 37.93' to a point; thence

S 12° 03' 01" E, 115.13' to a point; thence S 26° 32' 55" E, 143.74' to a point; thence S 09° 16' 58" E, 235.50' to a point; thence S 56° 34' 50" W, 230.74' to a point; thence N 76° 38' 13" W, 189.81' to a point; thence N 51° 01' 51" W, 328.64' to a point; thence S 73° 16' 35" W, 167.41' to a point; thence N 53° 05' 20" W, 87.91' to a point; thence N 80° 39' 21" E, 89.09' to a point; thence N 52° 47' 00" W, 160.01' to a point; thence N 37° 42' 56" W, 280.28' to a point; thence N 31° 41' 51" W, 201.60' to a point; thence N 26° 55' 57" W, 47.61' to a point; thence N 26° 38' 25" W, 92.06' to a point; thence N 19° 43' 25" W, 54.28' to a point; thence N 63° 15' 25" E, 100.13' to a point; thence N 26° 44' 40" W, 166.48' to a point; thence N 49° 17' 00" W, 98.64' to a point; thence N 47° 22' 10" E, 195.27' to a point; thence N 26° 44' 40" W, 189.79' and returning to the Point of Beginning.

BE IT FURTHER RESOLVED that the Commission recommends that approval of this use permit be subject to the following conditions:

1. This Special Use Permit shall authorize the construction of a maximum of 400 timeshare units on approximately 25.1 acres of land located on the south side of Penniman Road (Route 641) approximately 600 feet west of its intersection with Springfield Road (Route 687), further identified as portions of Assessor's Parcel Nos. 11-3-E and 11-3-F.
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to the commencement of any development or land clearing activities on the site. Such site plan shall be in substantial conformance with the "King's Creek Plantation, Jones Acquisition Exhibit," prepared by Landmark Design Group and dated January 6, 2005, supplemented by the applicant's narrative description titled "King's Creek Plantation: Jones Property Expansion," dated January 27, 2005, and the building rendering entitled "SPI & SPJ Building Elevation, Kings Creek Plantation Jones Tract" and dated January 6, 2005." Copies of all three documents shall remain on file in the Planning Division.
3. The maximum number of timeshare units, including "lockout units," shall be 400.
4. No buildings on the subject property shall exceed four (4) stories in height.
5. On-site parking to serve the development shall be provided at a minimum ratio of 1.3 spaces per dwelling unit.
6. The Zoning Administrator shall be authorized to require the developer to conduct a signal warrant analysis of the intersection of Tranquility Drive, Penniman Road, and Route 199 prior to the approval of any site plan for development of the property. In any event, a traffic signal warrant analysis shall be required prior to approval of the 1,101st unit in the project, if a signal has not yet been installed.
7. The developer shall provide a gated access from the subject property to Penniman Road for emergency vehicles only. No other vehicular access from the subject property to Penniman Road shall be permitted either during or after the construction process.

8. Landscaping shall be provided on both sides of the afore-mentioned gated emergency access in accordance with the planting ratios for a Type 25 (25') transitional buffer in accordance with the standards set forth in Section 24.1-243 of the York County Zoning Ordinance.
9. The entire development shall be served by public water and sanitary sewer.
10. The developer shall submit a Natural Resources Inventory in accordance with the Environmental Management Area Overlay District standards set forth in Section 24.1-372(d) of the Zoning Ordinance.
11. The timeshare resort shall consist only of residential units for which the exclusive right of use, possession, or occupancy circulates among various owners or lessees thereof in accordance with a fixed time schedule, which may vary within certain specified time periods, on a periodically recurring basis.
12. Permanent year-round occupancy of any units by any individual or family other than that of a resident manager or caretaker and his or her family shall not be permitted.
13. All agreements and restrictions pertaining to ownership and maintenance of common areas on the site shall comply fully with Section 55-360 et seq., Code of Virginia, the Virginia Real Estate Time-Share Act. Certification by the developer's legal counsel that the referenced standards have been met shall be submitted with development plans.
14. All streets, drives, and parking areas in the development shall be constructed to VDOT cross-sectional street standards.
15. The applicant shall be responsible for compliance with the regulations in Section 24.1-115(b)(6) of the Zoning Ordinance that pertain to the recordation of this resolution in the office of the Clerk of the Circuit Court.
